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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,005	09/25/2003	Tatsuya Igarashi	Q77667	6240

23373 7590 09/27/2005

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

GARRETT, DAWN L

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,005

Applicant(s)

IGARASHI ET AL.

Examiner

Dawn Garrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-20 is/are allowed.
- 6) ☒ Claim(s) 1,10 and 13-16 is/are rejected.
- 7) ☒ Claim(s) 2-9,11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This Office action is responsive to applicant's request for reconsideration dated June 21, 2005. The previously set forth election of species requirement is hereby withdrawn by the examiner. All claims are under consideration at this time.
2. The rejection of claims 1-3 and 13-16 under 35 USC 102(b) as being anticipated by Kishimoto et al. (JP 2000-277262) is withdrawn due to applicant's arguments regarding the proviso that the inventive compounds are not porphyrins.
3. The rejection of claims 1-3 and 13-16 under 35 USC 102(b) as being anticipated by Ishiko et al. (JP 02-213088) is withdrawn due to applicant's arguments regarding the proviso that the inventive compounds are not porphyrins.
4. The provisional obviousness-type double patenting rejection over claims 1-6, 9, 11, 13, 15, and 17-19 of copending application no. 10/738,307 as set forth in the Office action mailed March 21, 2005 is maintained. Applicant has not submitted a terminal disclaimer at the present time.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 10, and 13-16 are rejected under 35 U.S.C. 102(a) as being anticipated by Mizutani et al. (WO 2001/92437). Mizutani et al. discloses metal complexes for a layer of a

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light-emitting device. The metal complexes are within the definition for formula (I) of claim 1 (see Formulas, pages 8-18, and abstract). Mizutani et al. is deemed to anticipate claims 1, 10, and 13-16.

7. Claims 1, 10, and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Yanagi et al. (JP 2000-355687). Yanagi et al. discloses metal complexes for a layer of a light-emitting device. The metal complexes are within the definition for formula (I) of claim 1 (see Formulas, abstract, and claims). Yanagi et al. is deemed to anticipate claims 1, 10, and 13-16.

Allowable Subject Matter

8. Claims 2-9 and 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 17-20 are allowed. The prior art fails to teach compounds according to claims 17-20 and devices comprising compounds as recited in claims 2-9 and 11-12. As previously stated in the last Office action, a device comprising formula (1) wherein R^{11} is substituted, R^{12} is substituted, Y^{11} , Y^{12} , Y^{13} are each substituted carbon, M is iridium, L is 2-phenyl pyrrole, n^{11} is 1, n^{12} is 2 and n^{13} is zero is considered allowable subject matter.

Response to Arguments

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. In addition, applicant's remarks with regard to the election of species are now moot due to the withdrawal of the election of species requirement.

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Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is (571)272-1523. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dawn Garrett
Primary Examiner
Art Unit 1774

D.G.
September 16, 2005